

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 9774 OF 2016 IN FAST/17546/2016

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT MAJBUTIKARN
DIVISION, OMERGA AND OTHERS
VERSUS
GOVIND EKNATH BEDAGE DEAD THR HIS LR VITHABAI EKNATH BEDAGE

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Advocate for Applicant No.1 : Mr. S. G. Karlekar.
AGP for Applicants No. 2, 3 : Mr. S. R. Yadav-Lonikar.
Advocate for Respondent : Mr. A. B. Kale.

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CORAM : K.K. SONAWANE, J.

DATED : 21ST NOVEMBER, 2017.

Order :-

When the matter is called out, Mr. A. B. Kale, learned counsel submits that he has an instruction to appear on behalf of respondent-original claimant and he is going to file vakalatnama during the course of day.

2. Heard Mr. S. G. Karlekar, learned counsel for applicant-Acquiring Body, Mr. Yadav-Lonikar, learned AGP for The State of Maharashtra / Special Land Acquisition Officer and Mr. Kale, learned counsel for respondent-original claimant.

3. Perused the application. This is an application for condonation 937 day's delay caused for filing First Appeal against the impugned Judgment and Award passed by learned Joint Civil Judge, Senior Division, Omerga, in Land Acquisition Reference No 287 of 2010 dated 17-07-2013. According to learned counsel for applicant-Acquiring Body, delay caused for filing First Appeal is not intentional or deliberate, but it was caused due to compliance of procedural formalities. He alleged that an exorbitant compensation amount for the land under acquisition granted by the learned Reference Court, therefore, applicant – Acquiring Body is intending to agitate the same in the Appellate Forum. In case, delay is not condoned, it would cause great loss to the Acquiring Body. Hence, he prayed to condone the delay.

4. In rebuttal, learned counsel for respondent (original claimant) submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same may not be condoned.

5. Admittedly, the matter pertains to land acquisition proceedings involving public funds. It is alleged that, learned Reference Court has awarded exorbitant compensation amount in favour of respondent-original claimant. The applicant- Acquiring Body is the Government Agency. The delay has been caused due to the compliance of official process and for budgetary allocation to incur the court expenses. In such circumstances, there is no impediment to condone the delay. In case, delay is not condoned on such technical ground, no one individual would be affected, but the public interest would be at stake. Moreover, it is rule of law that, while dealing with the application for condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding pedantic approach. In such circumstances and reasons mentioned in the application, the delay caused for filing First Appeal deserves to be condoned. Accordingly, civil application for condonation of delay stands allowed in terms of prayer clause 'A'. The delay caused in preferring the First Appeal against impugned Judgment and Award is hereby condoned. Registry to take requisite steps for further process.

6. After registration of appeal, issue notice for final hearing of appeal at the admission stage to respondent (original claimant). Mr. Kale, learned counsel waives service of notice for respondent (original claimant). Meanwhile, call for record and proceedings from the concerned Reference Court. After receipt of record and proceedings, list the matter in due course.

7. Accordingly, civil application in above terms stands disposed of.

[K. K. SONAWANE]
JUDGE